

REMARKS

The present amendment is submitted in response to the Office Action dated June 28, 2004, which set a three-month period for response, making this amendment due by September 28, 2004.

Claims 21, 23-26, 28, 30-31, 33, 35, 38-39, and 41-47 are pending in this application.

In the Office Action, misnumbered claims 1-20 were renumbered as claims 21-40, in light of the preliminary amendment filed April 22, 2002. The specification was objected to for various informalties. Claims 21-40 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 21, 23, 24, 25, 26, 28, 30, 31, 35, 38, and 39 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application publication 2003/0014828. Claims 29 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Egner-Walter in view of German Patent No. 19736368 to Merkel et al.

The Applicants note with appreciation the allowance of claims 22, 27, 32, 34, 36, 37, and 40 if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, and to include the limitations of the base claim and any intervening claims.

In the present amendment, the specification was amended to add standard sectional headings and to delete reference to the claims.

Claims 21-40 were amended to address the stated ground for rejection under Section 112, second paragraph, and to adopt standard U.S. claim format and language.

In light of the allowance of the noted claims, claims 22, 27, 32, 34, 36, 37, and 40 have been rewritten in independent form as new claims 41-47, respectively. Claims 22-27, 32, 34, 36, 37, and 40 were canceled.

However, the Applicants respectfully submit that independent claim 21 also is allowable over the art of record. The cited reference to Egner-Walter fails to show a wiper blade, whose wind deflection strip in cross section has two divergent legs, which are connected to one another at a common basis, whose free ends facing the window are supported on the wiper blade and in which on the outer side of one of the legs, the attach surface is formed.

In contrast, Egner-Walter shows a wiper blade very similar to that of the Merkel et al reference. Both of the wiper blades shown in these references, specifically in Figure 3 of Merkel et al and Figure 6 of Egner-Walter, possess the disadvantages discussed in the specification of the present application, because they have a wind deflection strip, whose cross section has the shape generally of a right-angled triangle. This triangle is made of solid material and in Egner-Walter, merely has claw projections, with which the support element is encompassed. Both references fail to disclose two divergent legs, as viewed in cross section.

The two divergent legs recited in claim 21 of the present application cannot be equated with the outer sides of the triangle, since in claim 21, it is

specifically claimed that on the outer side of one of the legs, the attach surface is formed. This means that the leg has an outer side and is not the outer side itself.

From the correspondingly clear use of the term "the leg" in the specification and from the shown cross section shown in Figures 2, 3, and 5 of the present invention, in which the legs are clearly recognizable, the practitioner of ordinary skill could not be lead to the interpretation of this element applied in the Office Action. The leg structure is discussed in particular in the specification on page 7, line 15 to page 8, line 22, and with reference to Figures 2 and 3, where the practitioner can clearly recognized the divergent legs 44 and 46.

On page 8, lines 24 to page 9, line 14, it is explained that the free ends of the legs 44 and 46 are provided with claw-like projections, which engage the outer edge strips of the support element.

Finally, on page 9, lines 22-25, it is disclosed that the claw surfaces 60 on the upper band side have a greater width than the claw surfaces engaging on the lower band side. Thus, it is clear that the legs are different from their free ends, which represent the claw-like projections. In Egner-Walter, merely a wind deflection strip made from solid material with claw-like projections is shown, BUT without legs. Also, Egner-Walter provides absolutely no suggestion of any leg structure.

In view of Figure 5 of the present application as well as the description on page 10, first full paragraph, it is clear that the legs 44 and 46 must enclose a hollow chamber between them, since it would make no sense to provide a wall 144, which connect the two legs to one another. In this connection, the

practitioner would immediately recognize that the legs of the present invention cannot be equated with the triangle made from solid material shown in Figure 6 of the Egner-Walter patent.

Because claim 21 discloses features that are neither shown nor suggested by Egner-Walter, the rejection of claim 21 under Section 102 must be withdrawn. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim*. ***Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.***, 212 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added).


Likewise, the rejection under Section 103 cannot be maintained, since neither reference discloses or suggests the leg structure recited in claim 21. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. ***In re Fritch***, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

For the reasons set forth above, the Applicants respectfully submit that claims 21, 23-26, 28, 30-31, 33, 35, 38-39, and 41-47 are patentable over the cited art. The Applicants further request withdrawal of the rejection under 35 U.S.C. 102 and reconsideration of the claims as herein amended.

In light of the foregoing amendments and arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700